

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

MMJ BIOPHARMA CULIVATION
INC.,

Plaintiff,

v.

PAMELA BONDI,¹ *et al.*

Defendants.

Civil Action No.
1:24-cv-127-WES-PAS

DEFENDANTS' NOTICE OF CHANGE IN POSITION

Defendants respectfully submit this Notice to inform the Court that the Acting Solicitor General has decided that the multiple layers of removal restrictions for administrative law judges ("ALJs") in 5 U.S.C. § 7521 do not comport with the separation of powers and Article II and that the Department of Justice will no longer defend them in litigation. Accordingly, the Department of Justice will not continue to defend Section 7521 in this action. *See* Defs.'s Mot. and Supporting Mem. of Law to Dismiss Under Fed. R. Civ. P. 12(b)(1) & (6) or, in the Alternative, R. 56 § III at 17-21 (Sept. 9, 2024) (ECF 16); Defs.' Reply § III at 4-5 (Dec. 13, 2023) (ECF 21).

Defendants nonetheless maintain that this Court should grant their motion to dismiss. As noted in the Defendants' Reply, ECF 21 at 1-3, the Plaintiff conceded that it failed to allege that, as a result of its constitutional objection to the removal restrictions on Drug Enforcement Administration ALJs, it was harmed. *Collins v. Yellen*, 594 U.S. 220, 258 n.24, 261, 263, 267, 283, 284 n.1 (2021) (opinion of the Court and concurrences by Thomas, Kagan, Sotomayor, JJ.); ECF 16 at 2, 14-17.

¹ Substituted in place of former Attorney General Merrick Garland under Federal Rule of Civil Procedure 25(d). The government also has substituted in the signature block Derek S. Maltz, Acting Administrator for the Drug Enforcement Administration, for Anne Milgram.

Dated: February 27, 2025

Respectfully submitted,

PAMELA BONDI, in her official capacity as U.S. Attorney General; U.S. DEPARTMENT OF JUSTICE; UNITED STATES DRUG ENFORCEMENT ADMINISTRATION; DEREK S. MALTZ, in his official capacity as Acting DEA Administrator; TERESA A. WALLBAUM, in her official capacity as a DEA Administrative Law Judge; and THE UNITED STATES OF AMERICA,

By their Attorneys,

SARA MIRON BLOOM
Acting United States Attorney

/s/ Kevin Bolan

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CERTIFICATE OF SERVICE

I hereby certify that, on February 27, 2025, I filed the foregoing document through this Court's Electronic Case Filing (ECF) system, thereby serving it upon all registered users in accordance with Federal Rule of Civil Procedure 5(b)(2)(E) and Local Rule Gen 304.

/s/ Kevin Bolan

KEVIN BOLAN

Assistant United States Attorney